

## Farm Service Agency, USDA

## § 723.502

monetary penalties described in this part are in addition to penalties prescribed by other criminal statutes including 18 U.S.C. 231 which provides for a fine of not more than \$10,000 or imprisonment for not more than 5 years, or both, for a person convicted of knowingly and willingly committing such acts as making a false acreage report, altering a marketing card, falsely identifying tobacco or buying and selling unused "103 percent of quota poundage" on marketing cards.

(c) *Misrepresentation and scheme or device.* A warehouse operator or dealer who is determined by FSA to have knowingly:

(1) Adopted any scheme or device which tends to defeat the purpose of the tobacco program.

(2) Made any fraudulent representation,

(3) Misused a MQ-76 or MQ-79-2, or

(4) Sold excess tobacco, shall pay a marketing quota penalty as prescribed in this part.

[55 FR 39914, Oct. 1, 1990, as amended at 56 FR 21444, May 9, 1991]

### § 723.415 Examination of records and reports.

For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining the information required to be furnished, in any report, but not so furnished, any warehouse operator, processor, dealer, buyer, trucker, or person engaged in the business of sorting, redrying, stemming, picking, or otherwise processing tobacco for producers, shall make available at one place for examination by representatives of the State FSA executive director and by employees of the Office of Investigation and Office of Audit, and of the Tobacco and Peanuts Division of the Farm Service Agency, U.S. Department of Agriculture upon written request by the State FSA executive director, all such books, papers, records, lot tickets, tobacco sale bills, buyer adjustment invoices, accounts, canceled checks, check register, check stubs, correspondence, contracts, documents, warehouse bill-out invoices or daily summary journal sheet, the tissue copy of Form MQ-72-1, Report of Tobacco Auction Sale, journal of producer marketing cards retained at

warehouse and memoranda as the State FSA executive director has reason to believe are relevant and are within the control of such person.

### § 723.416 Information confidential.

All data reported to or acquired by the Secretary pursuant to the provisions of this subpart shall be kept confidential by all officers and community committees, and all county FSA office employees. Only such data so reported or acquired as the Deputy Administrator deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under title III of the Act. The provisions of this section shall not be deemed to prohibit the issuance of general statements based upon the report of a number of parties which statements do not identify the information furnished by any person.

## Subpart E—Establishing Burley and Flue-Cured Tobacco National Marketing Quotas

SOURCE: 63 FR 11583, Mar. 10, 1998, unless otherwise noted.

### § 723.501 Scope.

This subpart sets out regulations for setting annual national marketing quotas for burley and flue-cured tobacco based on the purchase intentions of certain manufacturers of cigarettes and on other factors. It also sets out penalty provisions for manufacturers who fail to purchase, within the tolerances set in this part, the amount of domestic tobacco, by kind, reflected in the stated intention as accounted for in accordance with this subpart.

### § 723.502 Definitions.

In addition to the definitions set forth at § 723.104, the definitions set forth in this section shall be applicable for purposes of administering the provisions of this subpart.

*CCC.* The Commodity Credit Corporation, an instrumentality of the USDA.

*Domestic manufacturer.* A domestic manufacturer of cigarettes.

*Domestic manufacturer of cigarettes.* A manufacturer, who as determined by the Director, produces and sells more